

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2019-224-E
DOCKET NO. 2019-225-E**

IN RE: South Carolina Energy Freedom Act)	REPLY TO RESPONSE TO
(House Bill 3659) Proceeding Related to)	CAROLINAS CLEAN ENERGY
S.C. Code Ann. Section 58-37-40 and)	BUSINESS ASSOCIATION'S
Integrated Resource Plans for)	MOTION FOR PROTECTIVE
Duke Energy Carolinas, LLC and)	ORDER
Duke Energy Progress, LLC)	

INTRODUCTION

Duke Energy Carolinas, LLC and Duke Energy Progress, LLC, (hereinafter as, “DEC” and “DEP”, and sometimes referred to together as, “Duke”), filed their Motion to Compel with this Commission on March 11, 2021. The Carolinas Clean Energy Business Association, (hereinafter as, “CCEBA”), filed a Motion for Protective Order in response to Duke’s Motion on March 18, 2021. Duke thereafter filed its Response to CCEBA’s Motion for Protective Order with this Commission on March 26, 2021. CCEBA’s timely Reply follows.

REPLY

DEC and DEP jointly served more than one hundred Interrogatories to CCEBA in these Dockets, in four sets of discovery requests. Duke’s service of more than one hundred Interrogatories was not withstanding Rule 33(b)(9) of the South Carolina Rules of Civil Procedure (“SCRCP”). Rule 33(b)(9) SCRCP, expressly limits Interrogatories to any one party, to fifty. “...but the **total number of general interrogatories to any one party shall not exceed fifty questions including subparts...**” (emphasis supplied).

The SCRCP allows a party to seek leave from this Commission¹ to serve additional general Interrogatories exceeding fifty, including subparts. Therefore, **Duke could have, but did not seek leave from this Commission to exceed fifty general Interrogatories.** Duke’s failure to seek leave from this Commission, forcing CCEBA’s Objections and Motion, and Duke’s refusal to withdraw or otherwise resolve their objectionable conduct, has resulted in a drain on the judicial economy of this Commission.

¹ R. 103-835 states that, “The S.C. Rules of Civil Procedure govern all discovery matters not covered in Commission Regulations.” Rule 33(b)(9), SCRCP states that the number of general interrogatories including subparts, may exceed fifty questions only upon and except, “...by leave of court upon good cause shown.”

Duke's Voluminous Response, Including Exhibits.

Duke's Response is not in compliance with South Carolina Case Law concerning a Response to a Motion for Protective Order. Specifically, upon CCEBA's Motion for Protective Order, which included a showing of "Particularized Harm", that showing places the burden on Duke to show that each of the Interrogatories is relevant and necessary to these Dockets. Hollman v. Woolfson, 683 SE 2d 495 (2009). Furthermore, Hollman states that this Commission must weigh the factors of whether the information sought by Duke is "relevant and necessary" against any Particularized Harm that CCEBA may suffer. Hollman at 578. Finally, Duke has the burden to show that the claimed lack of information is "...real rather than a merely possible threat." Hollman at 578.

CONCLUSION

Based on the foregoing, (i) the Introduction and paragraphs hereinabove, (ii) Rule 33(b)(9), SCRCF, (iii) R. 103-835, and (iv) CCEBA's showing of Particularized Harm, all of which taken together constitute good cause shown, this Commission should issue the requested Order of Protection tolling any requirement that CCEBA respond to all Interrogatories contained in Duke's Discovery Requests after Interrogatory 1-24(b). This Commission should grant the relief sought and such other and further relief as it may deem appropriate.

Dated this 31st day of March 2021.

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